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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,226

07/01/2003

Alan F. Jankowski

IL-11019

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7590

10/30/2009

LLNL/Zilka-Kotab

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EXAMINER

LEE, CYNTHIA K

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

10/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALAN F. JANKOWSKI, JEFFREY D. MORSE,
RAVINDRA S. UPADHYE, and
MARK A. HAVSTAD

Application No. 10/612,226
Technology Center 1795

Mailed: October 30, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on October 20, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on July 13, 2009, in response to the Examiner's Answer mailed May 13, 2009.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed October 14, 2009, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) vacate the Communication mailed October 14, 2009;

2) generate and mail either:

a) a revised Communication properly acknowledging to the Reply Brief dated July 13, 2009 in accordance with MPEP§ 1208, part II.;

OR

- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

dal

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